

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

ERNEST J. GLYNN, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Docket No. 2:19-cv-00176-NT
)	
MAINE OXY-ACETYLENE SUPPLY)	
CO., et al.,)	
)	
Defendants.)	

**ORDER ON DEFENDANTS' OBJECTIONS TO THE
RECOMMENDED DECISION OF THE MAGISTRATE JUDGE**

On January 28, 2022, the United States Magistrate Judge filed with the Court, with copies to counsel, his Recommended Decision on Defendants' Motion to Approve Class Notice (ECF No. 129). The Defendants filed objections to the Recommended Decision on February 10, 2022 (ECF No. 130). I have reviewed and considered the Recommended Decision and the Defendants' timely objections thereto. The Defendants lodge two objections to the Recommended Decision. First, they object to the Magistrate Judge's denial of the Defendants' request to include information in the class notice about both the U.S. Department of Labor's separate lawsuit (Docket No. 2:20-cv-00326-NT) and the Defendants' settlement offer. Second, they contend that the description of the action used in the Magistrate Judge's recommended Class Notice (the "**Proposed Notice**") is not neutral. The Defendants further identify portions of the Proposed Notice that they contend are "problematic."

With respect to the first objection, the Magistrate Judge's Order is neither clearly erroneous nor contrary to law, *see* Fed. R. Civ. P. 72(a), and this objection is **OVERRULED**.

With respect to the second objection, the Defendants contend that the Plaintiffs' proposed description of the class action, which the Magistrate Judge largely adopted from the Plaintiffs' proposed notice, is not neutral. When considering non-dispositive decisions by a Magistrate Judge, I "must consider timely objections and modify or set aside any part of the order that is clearly erroneous or is contrary to law." Fed. R. Civ. P. 72(a). I agree with the Defendants that the Proposed Notice is too one-sided because it discusses the Plaintiffs' claims in detail in three locations (the opening page and paragraphs two and five), and it limits the mention of the Defendants' position to a terse denial (paragraph six). Accordingly, I have removed the detail in the opening description and in paragraph two, and I have added to paragraph six detail regarding the Defendants' answer.

Finally, as to the "problematic" portions of the Magistrate Judge's Proposed Notice, I see nothing that is contrary to law or clearly erroneous with the exception of the reference in Paragraph eighteen to a jury. Since there is no longer a jury demand in this case, I have removed that reference. *See* Pls.' Resp. to Defs.' Mot. to Strike Jury Trial Demand & Mot. for Partial J. on the Pleadings Regarding Pls.' Demand for Punitive Damages 2 (ECF No. 25).

It is therefore **ORDERED** that the Defendants' objections are **SUSTAINED IN PART** and **OVERRULED IN PART**, and the Recommended Decision of the

Magistrate Judge is hereby **AFFIRMED IN PART** and **REVERSED IN PART**. I further authorize the issuance of the notice to the class in the form of the attached notice.

SO ORDERED.

/s/ Nancy Torresen
United States District Judge

Dated this 2nd day of March, 2022.